

Hon. Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONATHAN JOSE ESPINOZA,

Defendant.

No. CR09-282RAJ

ORDER DENYING MOTION FOR  
REDUCTION OF SENTENCE

**I. INTRODUCTION**

This matter comes before the court on Defendant Jonathan Jose Espinoza's *pro se* motion requesting a reduction in his sentence under 18 U.S.C. § 3582(c)(2), based on Amendments 782 and 788 to the United States Sentencing Guidelines ("USSG") (Dkt. #279). Plaintiff United States of America opposes the motion (Dkt. #291). The court has thoroughly considered the parties' briefing, the relevant record, and the applicable law. Being fully advised,<sup>1</sup> the court DENIES Mr. Espinoza's motion for the reasons stated below.

**II. BACKGROUND**

Defendant Jonathan Jose Espinoza was sentenced by this court on August 6, 2010, following his conviction by a jury for conspiracy to distribute cocaine.

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<sup>1</sup> No party has requested it, and the court finds oral argument to be unnecessary.

1 At the time of sentencing the court calculated Defendant's Total Offense Level  
2 as 31. Because Defendant had a Criminal History Category I, the resulting  
3 Guidelines range was 108 to 135 months. Based on various 18 U.S.C. § 3553(a)  
4 factors, the court varied below this range and imposed a sentence of 87 months'  
5 imprisonment.

### 6 **III. DISCUSSION**

#### 7 **A. Legal Standard**

8 Amendment 782 to the United States Sentencing Guidelines, which became  
9 effective November 1, 2014, lowered the penalties for most drug offenses by  
10 reducing most base offense levels contained in the USSG § 2D1.1 Drug Quantity  
11 Table by two levels, and making other related adjustments to this Guideline. Along  
12 with Amendment 782, the Sentencing Commission adopted Amendment 788, which  
13 decreed that Amendment 782 may be applied retroactively to lower the sentences of  
14 previously sentenced inmates. At issue in the instant motion is whether this Court  
has authority to reduce Defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).

15 In order to qualify for a sentence reduction under 18 U.S.C. § 3582(c)(2), two  
16 conditions must be met: (1) the Defendant must have been sentenced to a term of  
17 imprisonment based on a sentencing range that has been lowered by a retroactively  
18 applicable Guidelines amendment; and (2) the sentence reduction sought must be  
19 consistent with the Sentencing Commission's applicable policy statements. *United*  
20 *States v. Waters*, 771 F.3d 679, 680 (9th Cir. 2014) (per curiam). A district court  
21 does not have jurisdiction to reduce the Defendant's sentence unless both criteria are  
22 met. *See United States v. Wesson*, 583 F.3d 728, 730 (9th Cir. 2009).

#### 23 **B. Defendant's Motion**


24 Under the retroactively effective amendments to USSG § 2D1.1, Defendant's  
25 Total Offense Level would now be reduced by two levels to Level 29. This in turn  
26 results in an amended Guideline range of 87 to 108 months. Because the sentence  
already imposed (87 months) is already at the low end of the range as calculated

1 applying the amended Guidelines (87 months), the Sentencing Commission's Policy  
2 Statement, USSG § 1B1.10, precludes any reduction in sentence. *Dillon v. United*  
3 *States*, 560 U.S. 817, 826 (2010).<sup>2</sup> As such, this court lacks jurisdiction to reduce  
4 Defendant's sentence.

5  
6 **IV. CONCLUSION**

7 For the above reasons, Defendant Jonathan Jose Espinoza's *pro se* Motion to  
8 Reduce Sentence (Dkt. #279) is DENIED.

9 DATED this 8<sup>th</sup> day of June, 2015.

10   
11 The Honorable Richard A. Jones  
12 United States District Judge  
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26 <sup>2</sup> There is nothing in the Presentence Report or the Statement of Reasons to suggest the "substantial assistance" exception to this limitation applies to Defendant. *See* § 1B1.10(b)(2)(B).